

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tileyah Williams	Team: Squad #3	CCRB Case #: 202003405	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/19/2020 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 11/19/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 05/20/2020 10:29 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 05/20/2020 10:29 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DT3 Daniel Silverio	5916	943816	WARRSEC
3. An officer			
4. DT3 Munir Alhidami	1315	940953	WARRSEC
5. DT3 Michael Leclair	5045	943471	WARRSEC
6. SDS John Albertelli	03235	910972	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Christophe Heredia	01339	938656	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)
B. An officer	Abuse: An officer threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
C. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	§ 87(2)(b)
E. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	§ 87(2)(b)
F. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	§ 87(2)(b)
G. DT3 Daniel Silverio	Abuse: Detective Daniel Silverio entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
H. SDS John Albertelli	Abuse: Sergeant John Albertelli searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
I. DT3 Michael Leclair	Abuse: Detective Michael Leclair searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
J. DT3 Munir Alhidami	Abuse: Detective Munir Alhidami searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
K. An officer	Abuse: An officer interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)

Case Summary

On May 20, 2020, § 87(2)(b) filed this complaint on behalf of herself, and her three children: § 87(2)(b)-old § 87(2)(b) and her two § 87(2)(b)-old daughters § 87(2)(b) and § 87(2)(b) with the CCRB via the call processing system.

On May 19, 2020, at approximately 7:00 a.m., Detective Daniel Silverio, Sergeant John Albertelli, Detective Munir Alhidami, Detective Christopher Heredia, and Detective Michael Leclair all of Manhattan Warrant Squad arrived at § 87(2)(b)'s apartment § 87(2)(b) at § 87(2)(b) in Manhattan in search of § 87(2)(b). They allegedly banged and kicked on § 87(2)(b)'s apartment door, causing the door to move when the wind blows (**Allegation A: Abuse of Authority**, § 87(2)(g)). An officer allegedly told § 87(2)(b) that if she did not open her door, they would break the door down and arrest everyone in the apartment (**Allegations B- F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) then used her mobile phone to start an audio recording and opened her door, at which point Det. Silverio entered and led the officers into § 87(2)(b)'s apartment (**Allegation G: Abuse of Authority**, § 87(2)(g)). Sgt. Albertelli, Det. Alhidami, and Det. Leclair then searched § 87(2)(b)'s apartment for § 87(2)(b) (**Allegation H-J: Abuse of Authority**, § 87(2)(g)). While they were in her apartment, an officer stopped her audio recording (**Allegation K: Abuse of Authority**, § 87(2)(g)).

The investigation obtained surveillance video footage from the § 87(2)(b)'s building (**01 Board Review**). The investigation did not obtain body-worn camera recordings because the officers were not equipped with them (**02, 03, 04, 05, 06 Board Review**). § 87(2)(b) provided the investigation with an audio recording of the incident (**07 Board Review**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Officers damaged § 87(2)(b)'s property.

Allegation (B) Abuse of Authority: An officer threatened to damage § 87(2)(b)'s property.

Allegation (C) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

Allegation (D) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

Allegation (E) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

Allegation (F) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

It is undisputed that on May 19, 2020, Det. Silverio, Sgt. Albertelli, Det. Alhidami, Det. Heredia, and Det. Leclair arrived at apartment building § 87(2)(b) in Manhattan. Det. Silverio was investigating one of his cases, for § 87(2)(b) who had at least one arrest warrant and an active probable cause to arrest I-CARD. The officers visited two apartments, including § 87(2)(b)'s apartment § 87(2)(b).

§ 87(2)(b) testified that she was in her bedroom asleep with § 87(2)(b) and § 87(2)(b) and that § 87(2)(b) was in his room asleep as well (**08 Board Review**). § 87(2)(b) was then awakened by loud banging on her apartment door. When she asked who it was, a male voice responded that it was the police. § 87(2)(b) then stood silent for a few seconds, at

which point she heard the kicking and banging on her apartment door continue. At least two voices said that if § 87(2)(b) did not open her door, they would break the door down and arrest everyone in the apartment. § 87(2)(b) later noticed that her front door began moving when the wind from her windows blew into the apartment. She believed this was a result of officers banging and kicking her door. § 87(2)(b) stated that this damage cannot be seen but she can hear it.

Det. Silverio testified that he arrived at the location to look for § 87(2)(b) who had one arrest warrant for murder, one arrest warrant for a gun charge, and an active probable cause to arrest I-CARD (**02 Board Review**). The incident location was not listed on § 87(2)(b) arrest warrant or I-CARD but Det. Silverio's investigation led him to the location. Det. Silverio could not recall which searches he conducted that led him to the location but believed that § 87(2)(b) was either living at the location or had affiliates that resided at the location. He was expecting to encounter § 87(2)(b) when he went to the location. Det. Silverio knew that he knocked on the door but did not recall officers banging and kicking § 87(2)(b)'s door and he denied doing so. Det. Silverio did not tell § 87(2)(b) that he would break her door down and arrest everyone in the apartment and he did not hear any other officers say that they would break § 87(2)(b)'s door down and arrest everyone in the apartment.

Sgt. Albertelli testified that he met Det. Silverio at the location to assist him in interviewing § 87(2)(b) associates (**03 Board Review**). He further noted that he was there with Det. Silverio for safety purposes and to verify arrests. Sgt. Albertelli did not see officers bang or kick on § 87(2)(b)'s door. He did not recall officers saying they would break § 87(2)(b)'s door, and he did not hear officers say they would arrest everyone in the apartment. He denied doing any of what was alleged. Det. Leclair, Det. Alhidami, and Det. Heredia's testimonies about why they arrived at the location were consistent with Det. Silverio's (**04, 05, 06 Board Review**). Det. Leclair did not remember if he or other officers banged or kicked on the door (**04 Board Review**). He also did not recall whether any officers said that they would break down § 87(2)(b)'s door and arrest everyone in the apartment and he did not make the alleged statements. Det. Alhidami and Det. Heredia's testimonies were consistent with Det. Leclair's regarding the alleged misconduct (**05, 06 Board Review**).

The video footage that the investigation obtained from the building did not have audio and did not cover the area near § 87(2)(b)'s apartment (**01 Board Review**). The audio recording provided by § 87(2)(b) does not capture this portion of the incident because § 87(2)(b) started recording after these statements were allegedly made (**07 Board Review**).

§ 87(2)(b) testified that officers threatened to break her door down and arrest everyone in the apartment but none of the officers admitted to saying this. The officers also did not hear or recall hearing any officer make these statements. § 87(2)(b) could not see who made these statements behind the closed door and she was unable to match the voice with any officer once she later opened her door. Additionally, the officers did not recall or denied banging and kicking on her door. The damage could not be seen, and the investigation could not determine whether there was damage to the door and whether the

officers caused the damage. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority: Detective Daniel Silverio entered § 87(2)(b) in Manhattan.

Allegation (H) Abuse of Authority: Sergeant John Albertelli searched § 87(2)(b) in Manhattan.

Allegation (I) Abuse of Authority: Detective Michael Leclair searched § 87(2)(b) in Manhattan.

Allegation (J) Abuse of Authority: Detective Munir Alhidami searched § 87(2)(b) in Manhattan.

It is undisputed that Det. Silverio entered § 87(2)(b)'s apartment and that the other officers followed him. It is also undisputed that the officers walked around in § 87(2)(b)'s home.

According to § 87(2)(b) she has a small apartment. Immediately to the left, there is a wall that leads to the living room. The kitchen is straight ahead. A shopping cart and a few mail packages are cluttered behind the apartment door, along the wall to the left. Immediately to the right of the entrance, there is a small closet. Approximately eight feet ahead, on the right, there is a hallway that leads to § 87(2)(b)'s room and then § 87(2)(b)'s room, which is along the same right wall, inches apart. At the end of that hall, there is a closed linen closet. The distance between § 87(2)(b)'s front door and her bedroom is approximately 20 feet.

§ 87(2)(b) testified that after the officers identified themselves as police, she asked why they were there **(08 Board Review)**. An officer told her that they would tell her once she opened her door. § 87(2)(b) looked through the peephole and saw that there were five officers outside her apartment. § 87(2)(b) then told the officers that they had the wrong apartment to which one of them responded that they would see when she opened the door. An officer also stated that they would not leave until § 87(2)(b) opened her door. § 87(2)(b) was awakened and walked out of his bedroom. § 87(2)(b) told him to return to his room.

§ 87(2)(b) then opened her apartment door approximately two feet wide and stood a door length away from the back of the door. § 87(2)(b) could not open her door fully because of the clutter. Immediately as she opened her door, Det. Silverio stepped into her apartment. This caused § 87(2)(b) to move further back because she wanted to keep a safe distance from the officers. Det. Silverio then stated that he had a warrant and was going to step into her apartment so that no one was in her business. § 87(2)(b) told Det. Silverio that no one beside her and her children were in the house and Det. Silverio said that he would verify that. Det. Silverio then walked further into § 87(2)(b)'s apartment, in her living room, and the rest of the officers followed him.

Det. Silverio questioned § 87(2)(b) about her identity and whether she recognized a photo of § 87(2)(b). The photo was on a document which included § 87(2)(b)'s address. § 87(2)(b) noticed that Sgt. Albertelli opened the closet near her front door and looked in it. Det. Leclair, Det. Heredia, and Det. Alhidami then started walking toward the back of her apartment at which point, Det. Alhidami stated that § 87(2)(b) should lead them so that they did not scare her children. § 87(2)(b) then led the officers to § 87(2)(b)'s room, where Det. Leclair looked in his closet. Det. Silverio then asked who was in § 87(2)(b)'s room. § 87(2)(b) led Det. Silverio and Det. Alhidami into her room, where § 87(2)(b) and § 87(2)(b) were still sleeping on her bed. Det. Alhidami attempted to lift § 87(2)(b)'s bed to look under it and then looked in § 87(2)(b)'s bedroom closet. As § 87(2)(b) left her bedroom, she saw that Det. Leclair was closing her refrigerator.

As mentioned earlier, Det. Silverio testified was at the location to look for § 87(2)(b) who was the subject of one of his cases (**02 Board Review**). Det. Silverio did not recall whether anyone answered § 87(2)(b)'s apartment door or whether he entered the apartment. He did not recall whether he determined that § 87(2)(b) was in the apartment. Det. Silverio did not remember whether any officers entered or searched § 87(2)(b)'s apartment. Sgt. Albertelli's testimony was consistent with Det. Silverio's (**03 Board Review**). Sgt. Albertelli denied doing any of what was alleged. Det. Leclair, Det. Alhidami and Det. Heredia also did not recall whether they or other officers entered and searched § 87(2)(b)'s home (**04, 05, 06 Board Review**).

§ 87(2)(b) was the subject of Det. Silverio's investigation, so he oversaw this case and led the visit. Additionally, Sgt. Albertelli stated that it was Det. Silverio's decision to enter the home. § 87(2)(g) identified Det. Silverio by name and described the subject officers as a 40 year-old muscular-built White male who is 5'10" tall wearing a face mask and jeans; a 40 to 50 year-old medium-built White male with a grey/silver fade hairstyle, wearing a face mask and jeans; and a 30 to 40 year old medium-built Hispanic or Black male with brown skin who is 5'10" tall wearing a face mask and jeans (**08 Board Review**).

According to the video from the incident location from IA 41, Det. Alhidami was the only other officer beside Det. Silverio who appeared to have brown skin (**01 Board Review**). He also appeared to be in his 30's, medium-built, 5'7" tall and was wearing a face mask and jeans. Det. Leclair was the only officer who appeared to look like a muscular-built White (or Hispanic) male. He looked to be in his 30's and 5'10" tall wearing jeans. Det. Sgt. Albertelli was the only officer not wearing a hat, revealing his fading hairstyle. He also appeared to have a medium build, be in his 50's and was wearing a mask and jeans. § 87(2)(b)

The video footage from the incident location does not depict the area where the alleged misconduct occurred (**01 Board Review**). The audio recording provided by § 87(2)(b) in IA7, captures knocking and a male voice saying, "Open up" (**07 Board Review**). At 18 seconds, § 87(2)(b) asks why they are there, and the voice replies that they will tell her when she opens her door. At 40 seconds, § 87(2)(b) opens her door, Det. Silverio asks her, "What's the problem?" At 57 seconds, he tells § 87(2)(b) that he is going to step

inside so that no one was in her business and that he has a warrant and will show her who he's looking for after they enter her apartment. Det. Silverio's voice sounds closer when he then asks § 87(2)(b) for her and her children's pedigree information. At 1:58 minutes, a male voice can be heard in the background interacting with § 87(2)(b) regarding school. At 2:00 minutes, a male voice asks § 87(2)(b) if she wants to walk them into her home so that they don't scare her children. At 2:07 minutes, § 87(2)(b) is heard talking further away from the recording. At least two officers' voices are heard near the recording, moving things around and speaking to each other.

After listening to § 87(2)(b)'s recording, Det. Silverio said that he was the officer who told § 87(2)(b) that they could not leave until she opened the door and stated to the investigator, that she could have been hiding § 87(2)(b) in her apartment **(02 Board Review)**. He further noted that once he contacted § 87(2)(b) she could not refuse to let them in. He identified himself as the officer saying that he was going to step into § 87(2)(b)'s apartment so that no one was in her business and that they would show her the warrant once they were inside. Det. Silverio maintained that he did not recall entering § 87(2)(b)'s apartment and added that he did not need her permission to do so because he had an arrest warrant. He identified the officer asking § 87(2)(b) to escort them further in her home as Det. Alhidami, Sgt. Albertelli, Det. Leclair, Det. Alhidami, and Det. Heredia's testimonies about the recording were similar to Det. Silverio's **(03, 04, 05, 06 Board Review)**. Sgt. Albertelli added that they did not need to stay at the location until § 87(2)(b) opened the door and that it was Det. Silverio's decision to enter her apartment because they had a warrant **(03 Board Review)**. Det. Leclair and Det. Heredia added that if they did search the apartment, it was to look for § 87(2)(b) **(04, 06 Board Review)**.

NYPD Attempted Apprehension report number § 87(2)(b) notes that on the incident date, Det. Silverio went to building § 87(2)(b) to apartment § 87(2)(b) and § 87(2)(b) regarding an I-CARD number § 87(2)(b) for § 87(2)(b) **(10 Board Review)**. He noted that he spoke to residents at both locations with negative results.

Sgt. Albertelli and Det. Alhidami testified that they did not know why there was more than one address associated with § 87(2)(b) **(03, 05 Board Review)**.

A request for the search warrant executed at the location on the incident date was returned with negative results **(11 Board Review)**. ICARD #§ 87(2)(b) active since March 14, 2020, and Arrest Warrant § 87(2)(b), active since March 19, 2020, confirm that § 87(2)(b) was wanted by the NYPD and that § 87(2)(b)'s address was not included on either document **(10, 12 Board Review)**. His address on both documents is listed as § 87(2)(b) in Manhattan.

CPL 120.80 notes that an officer may enter any premise which they reasonably believe the defendant to be present; provided, however, that where the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant, the officer shall proceed in the manner specified by CPL 690.15 (Search warrants) **(13 Board Review)**. NYPD Patrol Guide 208-42 reiterates that forced entry is prohibited without a search warrant **(14 Board Review)**. If no search

warrant exists, an officer may only enter a premise with consent or in exigent or emergency circumstances, Payton v. New York, 45 N.Y. 2d 300 (15 Board Review). People v. Gonzalez 39, N.Y. 2d 122 notes that consent is an act of true will and must be voluntary and free of coercion (16 Board Review).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (K) Abuse of Authority: An officer interfered with § 87(2)(b)'s use of a recording device.

It is undisputed that § 87(2)(b) started an audio recording of the incident prior to opening her apartment door for the officers. It also undisputed that the recording ended three minutes and 51 seconds after the officers entered § 87(2)(b)'s apartment. The officers were still inside of the apartment when the recording ended.

§ 87(2)(b) testified that after she started the recording, she placed her mobile phone on top of her deep freezer in her kitchen (09 Board Review). When the officers left her apartment, she saw that someone stopped her phone recording and moved the phone from where she put it.

As mentioned earlier, Det. Silverio maintained that he did not recall whether he entered § 87(2)(b) apartment (02 Board Review). He stated that he did not stop § 87(2)(b)'s

recording and did not hear about other officers doing so. Sgt. Albertelli said that he never saw § 87(2)(b)'s phone and did not hear about officers touching it **(03 Board Review)**. Det. Leclair and Det. Alhidami testified that they did not recall themselves or other officers stopping § 87(2)(b)'s recording **(04, 05 Board Review)**. Det. Leclair did not hear about officers stopping the recording after the incident **(04 Board Review)**. Det. Heredia testified that he did not stop § 87(2)(b)'s recording and he did not see any other officers do so **(06 Board Review)**.

The audio recording provided by § 87(2)(b) from IA7, captures § 87(2)(b) talking to Det. Silverio at 3:38 minutes of the recording at some distance away from the recording **(07 Board Review)**. At 3:48 minutes, two male voices make inaudible statements right near the phone. A male's voice gets closer to the phone, says, "Yea, I know," and the recording ends.

Det. Silverio testified that he recognized this voice as his own **(02 Board Review)**. Beside Det. Silverio, none of the officers could recognize the voice closest to the recording prior to it ending **(03, 04, 05, 06 Board Review)**.

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties. **(17 Board Review)**.
- Det. Silverio has been a member of service for 15 years and has been a subject in 15 other CCRB complaints and 47 allegations, four of which were substantiated.
 - Case 201201095 involved substantiated allegations of a frisk and stop allegation. APU found him guilty, and the NYPD forfeited 3 of his vacation days.
 - Case 201905329 involved substantiated allegations of failure to provide a business card. The Board recommended command discipline A and the NYPD imposed it.
 - Case 201905365 involved substantiated allegations of failure to provide a business card. The Board recommended instruction and the NYPD imposed it.
 - Cases 201706562, 201801085, 201807958, 201900233, 201905365, 202006887 all involve allegations of entry of premises, none of which were substantiated. Case 202006887 is still active.
- Sgt. Albertelli has been a member of service for 30 years and has been a subject of two other CCRB complaints and six allegations, two of which were substantiated.

- Case 201411847 involved substantiated allegations of detaining an individual and entering a premise. APU found him not guilty. § 87(2)(g)
- Det. Alhidami has been a member of service for 15 years and has been a subject of four other CCRB complaints, none of which were substantiated. § 87(2)(g)
- Det. Leclair has been a member of service for 15 years and has been a subject to four other CCRB complaints and eleven allegations, two of which were substantiated.
 - Case 201905389 involved substantiated allegations of a threat to notify ACS and a failure to provide a business card. The Board has recommended charges and the NYPD has not yet imposed any discipline. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of June 7, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**18 Board Review**).
- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: _____ 3 _____

Investigator: <u>Tileyah Williams</u>	Investigator <u>Tileyah Williams</u>	<u>01/20/2022</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Olga Golub</u>	IM <u>Olga Golub</u>	<u>01/20/2022</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date